

8029. Adulteration and misbranding of Royal Quality Scratch Feed and Every Day Scratch Feed. U. S. * * * v. Rudy-Patrick Seed Co., a Corporation. Confessed judgment. Fine, \$60 and costs. (F. & D. No. 9975. I. S. Nos. 19502-m, 20478-m, 8325-p.)

On February 2, 1920, the United States attorney for the Western District of Missouri, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against the Rudy-Patrick Seed Co., a corporation, Kansas City, Mo., alleging shipment by said defendant, in violation of the Food and Drugs Act, on or about June 6, 1917, from the State of Missouri into the State of Kansas, of a quantity of an article, labeled in part "Royal Quality Scratch Feed," and on or about May 22, 1917, from the State of Missouri into the State of Arkansas, of two consignments, to Little Rock and Fort Smith, respectively, of quantities of an article, labeled in part "Every Day Scratch Feed," which were adulterated and misbranded.

Analysis and examination of a sample of the Royal Quality Scratch feed by the Bureau of Chemistry of this department showed that it contained 4.68 per cent of crude fiber and 53.88 per cent of carbohydrates, and that it consisted mainly of corn, oats, wheat, and excessive grit, with a small amount of kafir corn, milo maize, and sunflower seed, and in addition flax, sorghum, millet, and a small amount of weed seeds. The Every Day Scratch feed of the Little Rock consignment contained 43 per cent of carbohydrates, 1.95 per cent of fat, and 32.6 per cent of grits (crushed limestone), in the Fort Smith consignment it contained 8 per cent of crude protein, 1.70 per cent of crude fat, 45.6 per cent of carbohydrates, and 27.5 per cent of grits (crushed limestone), and each consignment consisted of wheat, corn, barley, oats, weed seed, and crushed limestone, with a trace only, if any, of kafir corn, sunflower seed, and milo maize.

Adulteration of both of the articles was alleged in substance in the information for the reason that limestone had been mixed and packed therewith so as to lower and reduce or injuriously affect its quality, and had been substituted in part for scratch feed, which the article purported to be.

Misbranding of the Royal Scratch feed was alleged in substance in the information for the reason that the statements, to wit, "Carbo 65.00% Fiber 3.00%" and "Ingredients Wheat, Corn, Kaffir Corn, Milo Maize, Barley or Oats and Sunflower Seed," borne on the sacks containing the article, regarding it and the ingredients and substances contained therein, were false and misleading in that they represented that the article contained not less than 65 per cent of carbohydrates and not more than 3 per cent of fiber, and that it consisted of the ingredients named on the label, and for the further reason that it was labeled as aforesaid so as to deceive and mislead the purchaser into the belief that it contained not less than 65 per cent of carbohydrates and not more than 3 per cent of fiber, and that it consisted of the ingredients named on the label, whereas, in truth and in fact, it contained less than 65 per cent of carbohydrates and more than 3 per cent of fiber, and did not consist of the ingredients named on the label, but consisted of a product containing flax, sorghum, millet, and weed seed. Misbranding was alleged for the further reason that it was a mixture containing an excessive proportion of limestone, and was offered for sale and sold under the distinctive name of another article, to wit, scratch feed.

Misbranding of the Every Day Scratch feed (Little Rock consignment) was alleged for the reason that the statements, to wit, "Carbo 52.00% * * * Fat 3.00%" and "Ingredients Wheat, Corn, Kaffir Corn, Milo Maize, Barley or Oats, Crys-Co Grit and Sunflower Seed," borne on the sacks containing the article, regarding it and the ingredients and substances contained therein, were false and misleading in that they represented that the article contained 52 per

cent of carbohydrates and 3 per cent of fat, and that it consisted of the ingredients named on the label as aforesaid, and for the further reason that it was labeled as aforesaid so as to deceive and mislead the purchaser into the belief that it contained 52 per cent of carbohydrates and 3 per cent of fat, and that it consisted of the ingredients named on the label, whereas, in truth and in fact, the article did not contain 52 per cent of carbohydrates and 3 per cent of fat, but contained a less amount, and did not consist of the ingredients named on the label, but consisted of a product containing wheat, corn, barley, oats, crushed limestone, and weed seed.

Misbranding of the Every Day Scratch feed (Fort Smith consignment) was alleged for the reason that the statements, to wit, "Protein 8.50% * * * Carbo 52.00% * * * Fat 3.00%" and "Ingredients Wheat, Corn, Kaffir Corn, Milo Maize, Barley or Oats, Crys-Co Grit and Sunflower Seed," borne on the sacks containing the article, regarding it and the ingredients and substances contained therein, were false and misleading in that they represented that the article contained 8.50 per cent of protein, 52 per cent of carbohydrates, and 3 per cent of fat, and that it consisted of the ingredients named on the label, and for the further reason that it was labeled as aforesaid so as to deceive and mislead the purchaser into the belief that it contained 8.50 per cent of protein, 52 per cent of carbohydrates, and 3 per cent of fat, whereas, in truth and in fact, it did not contain 8.50 per cent of protein, 52 per cent of carbohydrates, and 3 per cent of fat, but contained a less amount, and did not consist of the ingredients named on the label, but consisted of a product containing wheat, corn, barley, oats, crushed limestone, and weed seed.

On June 5, 1920, the case having come on for disposition, the defendant corporation, having been called upon to answer to the information, confessed judgment through its counsel, and the court imposed a fine of \$10 on each of the 6 counts, making a total of \$60 and costs.

E. D. BALL, *Acting Secretary of Agriculture.*

8030. Misbranding of noodles and alleged misbranding of spaghetti and macaroni. U. S. * * * v. 300 Cases of Noodles, 1,000 Cases of Spaghetti, and 1,300 Cases of Macaroni. Tried to the court. Decree of condemnation and forfeiture as to certain of the packages of noodles. Product ordered released on bond. Spaghetti and macaroni and such of the packages of noodles as were not remarked ordered returned to claimant, The Cleveland Macaroni Co. (F. & D. No. 10265. I. S. Nos. 6929-r, 6930-r, 6931-r. S. No. C-1213.)

On May 15, 1919, the United States attorney for the District of Minnesota, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel for the seizure and condemnation of 300 cases of noodles, 1,000 cases of spaghetti, and 1,300 cases of macaroni, remaining in the original unbroken packages at St. Paul, Minn., alleging that the articles had been shipped on or about April 14, 1919, from St. Louis, Mo., by The Cleveland Macaroni Co., Cleveland, Ohio, and transported from the State of Missouri into the State of Minnesota, and charging misbranding in violation of the Food and Drugs Act, as amended. The noodles were labeled, "Golden Age Trade-Mark The Machine Dried Noodles Contain Egg Net Weight" ("5 oz." marked out) "4 Oz. America's Greatest Value 10¢ because from America's Largest Plant Machine Formed The new process The Cleveland Macaroni Co., Cleveland, O. U. S. A. Modern Macaroni Makers," the spaghetti was labeled in part, "Golden Age Trade Mark The Machine Dried Spaghetti Net Weight 7 Ounces America's Greatest Value because from America's Largest Plant The Cleveland Macaroni Co., Cleveland, O. U. S. A.